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Via ECF and email to Stephen_Bond@njdcourts.gov

September 15, 2020

Hon. James B. Clark
United States Magistrate for the District of New Jersey
Martin Luther King Building and United States Courthouse
50 Walnut Street
Newark, NJ 07101

Re: ***United States v. Elan Yaish***
Mag. No. 20-12359

Dear Judge Clark:

Elan Yaish (“Mr. Yaish”), through undersigned counsel, respectfully requests permission, with the appropriate release restrictions, to return to Israel, his principal residence, to be with his wife and children over the Jewish holidays, namely, Rosh Hashana, Yom Kippur and Sukkoth (the “Holidays”), and then return to New York immediately following the completion of the Holidays. In addition, Mr. Yaish requests that the conditions of his detention be amended to remove the home detention restrictions and permit him to travel in New York City and New Jersey while still wearing his security bracelet.

I. PERSONAL BACKGROUND

Mr. Yaish is a 50 year old male born in Brooklyn, New York on December 7th, 1969. He is one of five siblings, all of whom live in Brooklyn and Long Island, New York. While on home detention, Mr. Yaish is staying in his parents’ home at 441 Foster Avenue, Brooklyn, New York. Both of Mr. Yaish’s parents (Shoshana and Zaduk) are elderly and his father is of very frail health and requires around-the-clock care.

Mr. Yaish has been married to his wife Rahel for over 23 years, and is the father of four children, ranging in age from 22 to 13, all born in New York. Rahel Yaish is originally from Queens, New York, where her elderly parents still reside. Her father suffers from Parkinson’s disease and is under special care. Rahel also has two siblings living in Teaneck, New Jersey.

ALBANY
AMSTERDAM
ATLANTA
AUSTIN
BERLIN[†]
BOSTON
CHICAGO
DALLAS
DELAWARE
DENVER
FORT LAUDERDALE
HOUSTON
LAS VEGAS
LONDON^{*}
LOS ANGELES
MEXICO CITY^{*}
MIAMI
MINNEAPOLIS
NEW JERSEY
NEW YORK
NORTHERN VIRGINIA
ORANGE COUNTY
ORLANDO
PHILADELPHIA
PHOENIX
SACRAMENTO
SALT LAKE CITY
SAN FRANCISCO
SEOUL[†]
SHANGHAI
SILICON VALLEY
TALLAHASSEE
TAMPA
TEL AVIV^A
TOKYO[‡]
WARSAW⁻
WASHINGTON, D.C.
WEST PALM BEACH
WESTCHESTER COUNTY

[†] OPERATES AS
GREENBERG TRAURIG GERMANY, LLP
^{*} OPERATES AS A
SEPARATE UK REGISTERED LEGAL ENTITY
^{*} OPERATES AS
GREENBERG TRAURIG, S.C.
⁻ OPERATES AS
GREENBERG TRAURIG LLP
FOREIGN LEGAL CONSULTANT OFFICE
^A A BRANCH OF
GREENBERG TRAURIG, P.A.,
FLORIDA, USA
[‡] OPERATES AS
GT TOKYO HORTSU JIMUSHO
⁻ OPERATES AS
GREENBERG TRAURIG GRZESIAK SP.K.

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The Yaish family relocated to Israel in August 2009. Since that time, they have returned to New York every summer and reside in their Monticello, New York home. Both Mr. Yaish and Rahel also return to New York, as needed, to visit and care for their respective elderly parents. Furthermore, Mr. Yaish returns monthly for work purposes for one to two-week stints, during which time he resides with his parents in Brooklyn. Elan and Rahel Yaish file annual tax returns in the United States and pay taxes on their property in Monticello, New York.

On a personal level, Mr. Yaish is a respected member of his community in Israel and was elected to the local governing body which manages the communal affairs for his community. He is also heavily involved in numerous charitable projects, ranging from raising funds for less fortunate families to youth education.

II. EDUCATIONAL AND PROFESSIONAL BACKGROUND

Mr. Yaish attended Yeshiva University in New York and graduated with a bachelor's degree in accounting in 1992. He is a licensed CPA and a member in good standing with the AICPA and NYSSCPA.

A comprehensive chronological summary of Mr. Yaish's professional career is set forth in **Exhibit A** through the date of Mr. Yaish joining Apogee. Over the course of his entire career, Mr. Yaish has maintained a stellar reputation for integrity and has never encountered any legal issues.

III. YAISH'S TIES TO NEW YORK/NEW JERSEY

As the Court evaluates our motion to permit Mr. Yaish to return to Israel and to revise the conditions of his release, the Court will consider the degree to which Mr. Yaish is tied to the New York/New Jersey area, thereby ensuring his return. As such, we reiterate the following:

- Although Mr. Yaish moved together with his family from New York to Israel in 2009, the Yaish family have since returned **every** summer to their home in Monticello, New York.
- Both Mr. Yaish and his wife have elderly parents in Brooklyn and Queens, respectively, and Mr. Yaish's father and father-in-law are in very poor health.
- All of Mr. Yaish's siblings live within Long Island and the 5 boroughs of New York, and Rahel has two siblings in Teaneck, NJ.
- Mr. Yaish's employer is located in New Jersey. Before the Covid-19 pandemic, he was travelling from Israel to New York/New Jersey every 3 to 4 weeks, on average. Mr. Yaish's employment requires that he maintain the same type of schedule and

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intends to continue such travel for his business, as it remains his primary source of income.

IV. SECURITY ENSURING YAISH'S RETURN

For additional security to ensure Mr. Yaish's return upon the conclusion of the Holidays, Mr. Yaish (and his family) will post the following assets (in addition to the unsecured \$250,000 personal bond that Yaish posted with his sister as a co-signer):

- Pledge the Monticello, New York house;
- Elan's mother, Shoshana Yaish and her beneficiaries, have agreed to pledge her residence at 441 Foster Avenue, Brooklyn, New York; and
- Mr. Yaish will deposit \$50,000.00 (US dollars) with the Court Registry to be released upon his return.

In addition, Mr. Yaish will hand over both his U.S. and Israeli passports to United States authorities while in Israel.

V. CONCLUSION

We fully appreciate the unorthodox nature of this motion. However, we respectfully request that this Court take into consideration the following facts:

- Mr. Yaish is an accomplished professional who has never encountered a legal issue before the current matter;
- Mr. Yaish and his family believe strongly enough in his return after the Holidays that they will pledge vital assets – over and above his personal bond; and
- Mr. Yaish's family in Israel, including his wife and young daughters, are experiencing enormous emotional and mental anguish over the current situation. Mr. Yaish's elderly mother has also experienced health related issues from the stress that Mr. Yaish is experiencing.

Mr. Yaish has been under house arrest for more than ten days and has been restricted from even going to synagogue or visiting his siblings, and his blood pressure has increased tremendously over the current ordeal. In short, it would be much healthier for both Mr. Yaish and his family, in both mind and spirit, if he is allowed to return home for the Holidays, and for his home detention restrictions to be modified to permit Mr. Yaish to travel throughout New York City and New Jersey.

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Should the court permit Mr. Yaish to return home, he will need to take a direct flight from New York (John F. Kennedy International Airport) or New Jersey (Newark International Airport) to Israel by tomorrow, Wednesday, September 16th, 2020 to ensure his arrival prior to the commencement of Rosh Hashanah. As such, we respectfully request this Court to expeditiously issue a ruling in time to make the necessary plans to allow Mr. Yaish, to travel to his family for the Jewish holidays.

Very truly yours,

/s/ Jaclyn DeMais

Jaclyn DeMais
Gregory Kehoe

cc: Jason Gould, Assistant U.S. Attorney
Jason.Gould3@usdoj.gov
Vincent Imbrosciano, U.S. Pre-Trial Services Officer
Vincent_Imbrosciano@njpt.uscourts.gov

EXHIBIT A

CFO, SundaySky Ltd., 2015 to 2017. Successfully raised a \$30 million Round D for the Company led by a top Israeli based growth capital fund. Negotiated a \$12 million venture line for the Company with Silicon Valley Bank. Closed a \$2 million convertible line of credit from a strategic customer as well as a \$5 million internal round. Developed the SAAS and key performance metrics for the company resulting in the Company's strategic KPI dashboard. Instrumental in developing and executing the Company's efficiency plan. Split time between the Israeli and US offices to manage all financial and legal aspects of the Company, including presenting at investor conferences and working with US based investors, bankers, venture capitalists, venture lenders and attorneys. Responsible for all capital raising efforts, strategic planning, M&A, public relations and investor relations as well as managing the finance and legal departments for the entire company.

CFO and Deputy CEO, RiT Technologies Ltd., (NASDAQ RITT), 2012 to 2015. Successfully raised an F-1 follow-on offering on NASDAQ. Responsible for drafting the registration statement and Company presentation. Presented the Company's business and financials to investors during the Roadshow. Completed an ATM offering for the Company. Managed all investor relationships. Responsible for all capital raising efforts, strategic planning, M&A, public relations and investor relations as well as managing the finance and HR departments for the entire company. Instrumental in implementing the Company's new strategic plan as well as instituting controls and procedures. Manage relationship with the Israeli Office of the Chief Scientist.

CFO, Goji Ltd., 2010 to 2012. Raised \$25 million from a leading US based venture capital firm. Instrumental in negotiations and closing of customer deal contracts valued at over \$500 million. Instituted controls and procedures, finalized the cap table, ESOP and audits for this high-tech company. Responsible for all capital raising efforts. Implemented budgeting tools and financial reporting, managed relationships with the board of directors, investors, lenders, and supervised the finance, IT, IP and legal departments.

President, ERS Associates, Ltd., 2006 to 2010. Provided business and financial advisory services to public and privately held companies. Act as CFO to and assist companies with raising capital, strategic planning, M&A, and SEC reporting. Successfully led the acquisition of a division from a publicly traded company. Transitioned companies to the OTC Bulletin Board. Advised publicly traded bio-technology company with their business development and capital raising efforts.

CFO, VP of Finance and Assistant Secretary, Manchester Technologies, Inc., (NASDAQ MANC), 2002 to 2005. Implemented strategic planning initiatives while actively working with the company's CEO and Board of Directors to maximize shareholder value for this \$300 million company. Key player in increasing market capitalization over 300%, including successful sale of company's IT Business and negotiation and sale of the company at a 36% premium. Instrumental in changing corporate and organizational structure. Directed Sarbanes-Oxley and all SEC reporting and filing requirements. Negotiated Company's line of credit. Directed all areas of investor relations.

Assistant Vice President of Finance, Converse Technology, Inc., (NASDAQ CMVT), 2000 to 2002. Managed all SEC reporting and filings for this \$1B software/telecommunications company with over 50 subsidiaries worldwide. Instrumental in the company's successful IPO of two of its subsidiaries including drafting the registration statements and roadshow presentations. Issued bond offering, raising \$600M. Managed more than \$1.7B in cash and investments. Actively involved in M&A, including the \$450M acquisition of Exalink Ltd.

Vice President of Finance and Controller, Trans-Resources, Inc., 1996 to 2000. Managed all accounting, finance, SEC reporting and filings for this \$500 million multi-national agricultural and industrial chemical company. Negotiated lines of credit with banks, managed debt compliance, and liaised with Moody's and S&P. Refinanced outstanding \$115 million high-yield debt and raised additional capital to fund acquisitions and growth. Along with executive management team acquired five companies with cash proceeds.

Senior Accountant, Deloitte & Touche LLP, 1992 to 1996. Provided audit and services to public and private clients in the manufacturing, retail, banking and not-for-profit industries.